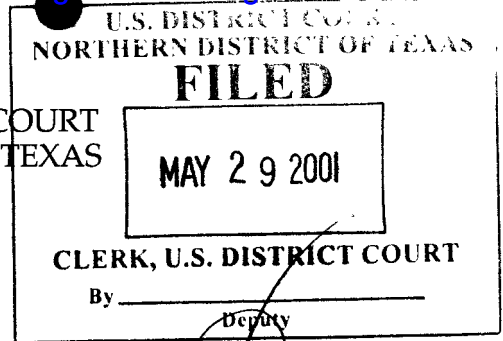


cty NDD  
ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



KEITH B. BURKINS,

Plaintiff,

§  
§  
§  
§  
§  
§  
§

v.

ROGER A. RUDLOFF, et al.,

Defendants.

CIVIL ACTION NO. 3:00-CV-2377-L

ORIGINAL ANSWER AND JURY DEMAND OF DEFENDANT ROGER A. RUDLOFF

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant Roger A. Rudloff ("Defendant") submits the following Original Answer and Jury Demand in response to Plaintiff's Original Complaint ("Plaintiff's Complaint"):

I.

1. Defendant admits the allegations in Section A of Paragraph V "Parties to This Suit" of Plaintiff's Complaint.

2. Defendant admits that he has been named as a defendant in this lawsuit as alleged in Section B of Paragraph V "Parties to This Suit" of Plaintiff's Complaint. Defendant denies the remaining allegations in Section B as to the alleged actions of Defendant. Defendant admits that Plaintiff has also named Chief Terrell Bolton as a defendant in this action. Defendant denies that Chief Bolton violated Plaintiff's rights to obtain records or obstructed justice.

3. Defendant denies the allegations in Sentence one of Paragraph VI "Statement of Claim" of Plaintiff's Complaint.

*Handwritten signature*

4. Defendant denies the allegation in Sentence two of Paragraph VI "Statement of Claim" of Plaintiff's Complaint.

5. Defendant denies the allegations in Sentence three of Paragraph VI "Statement of Claim" of Plaintiff's Complaint.

6. Defendant denies the allegations in Sentence four of Paragraph VI "Statement of Claim" of Plaintiff's Complaint.

7. Defendant denies the allegation in Sentence five of Paragraph VI "Statement of Claim" of Plaintiff's Complaint.

7. Defendant denies the allegations in Sentence six of Paragraph VI "Statement of Claim" of Plaintiff's Complaint.

8. Defendant denies the allegations in Sentence seven of Paragraph VI "Statement of Claim" of Plaintiff's Complaint.

9. Defendant denies the allegations in Sentence eight of Paragraph VI "Statement of Claim" of Plaintiff's Complaint.

10. Defendant denies that Plaintiff is entitled to any of the relief sought in the "Relief" Section of Paragraph VI "Statement of Claim" of Plaintiff's Complaint.

## II.

### AFFIRMATIVE DEFENSES

1. Defendant affirmatively pleads that Plaintiff has failed to state a claim upon which relief can be granted.

2. Defendant affirmatively pleads that probable cause existed for the detention and arrest of Plaintiff, and that Defendant's actions did not violate clearly established law of which a reasonable person would have known, and that no deprivation of rights occurred.

3. Defendant affirmatively pleads that, on the occasion in question, Plaintiff did not suffer a constitutional injury, that Plaintiff's alleged injury, if any, did not result directly and only from the use of the force by Defendant, that the use of force was not clearly excessive to the need to use force, and the use of force was objectively reasonable.

4. Defendant affirmatively pleads that he used only the amount of force which he reasonably believed to be immediately necessary to arrest and maintain custody of Plaintiff, and to protect himself and others from Plaintiff's unlawful use of force.

5. Defendant affirmatively pleads that he is entitled to official and qualified immunity, and affirmatively pleads that at all times he acted without malice, without an intent to deprive Plaintiff of any legally protected rights, with a reasonable good faith belief that his actions were lawful and proper and within and pursuant to the scope of his discretionary authority as a police officer, and affirmatively pleads that he did not violate clearly established law of which a reasonable person would have known.

6. Defendant affirmatively pleads that, on the occasion in question, Plaintiff's alleged injuries, if any, resulted directly and only from Plaintiff's own illegal actions.

7. Defendant affirmatively pleads that he acted in self-defense protecting himself from Plaintiff's unlawful use of force.

8. Defendant affirmatively pleads that Plaintiff's claims are barred by the doctrines of res judicata or collateral estoppel.

9. Defendant affirmatively pleads that Plaintiff may not recover damages for state law claims because he has been convicted of a felony, and the alleged injuries were

sustained during the commission of the felony, and Plaintiff would not have been injured but for the commission of the felony. Tex. Civ. Prac. & Rem. Code § 86.002(a).

III.

JURY DEMAND

Defendant demands a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing by this suit, that all relief requested by Plaintiff be denied, that Defendant recover all costs of suit, including attorney's fees, and for such other relief, general or special, at law or in equity, to which Defendant is entitled.

Respectfully submitted,

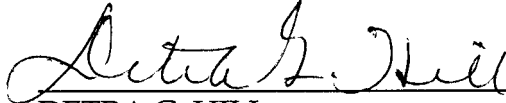
CITY ATTORNEY OF THE CITY OF DALLAS

MARK E. GOLDSTUCKER  
Assistant City Attorney  
State Bar of Texas No. 08104100  
DETRA G. HILL  
Assistant City Attorney  
State Bar of Texas No. 09627800  
Dallas City Hall 7BN  
1500 Marilla Street  
Dallas, TX 75201  
214/670-3510  
Telecopier: 214/670-0622

By:   
Assistant City Attorney

CERTIFICATE OF SERVICE

A copy of the foregoing document was served by certified mail, return receipt requested on Keith B. Burkins, #00034256, Plaintiff Pro Se, Dallas County Jail, 500 Commerce Street, Lew Sterrett, Dallas, Texas 75202, on the 27<sup>th</sup> day of May, 2001.

  
\_\_\_\_\_  
DETRA G. HILL